

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF INDIANA
NEW ALBANY DIVISION

IN RE:

EASTERN LIVESTOCK CO., LLC

CASE NO. 10-93904
CHAPTER 11

DEBTOR

**RESERVATION OF RIGHTS AND OBJECTION TO FIRST
INTERIM APPLICATION OF KROGER, GARDIS & REGAS, LLP FOR
COMPENSATION AND REIMBURSEMENT OF EXPENSES AS
SPECIAL COUNSEL TO CHAPTER 11 TRUSTEE**

Come Bluegrass Stockyards, LLC, Bluegrass Stockyards of Campbellsville, LLC, Bluegrass Stockyards East, LLC, Bluegrass-Maysville Stockyards, LLC, Bluegrass Stockyards of Richmond, LLC, Bluegrass South Livestock Market, LLC,¹ Alton Darnell, East Tennessee Livestock Center, Inc., Moseley Cattle Auction, LLC, Piedmont Livestock Company, Inc., and Southeast Livestock Exchange, LLC (collectively, the “Creditors”), by counsel, and hereby reserve for the final fee application all objections to the allowance and payment of fees and expenses of Kroger, Gardis & Regas, LLP (“KGR”). In support of this Reservation of Rights and Objection, the Creditors respectfully state as follows:

BACKGROUND

1. On December 27, 2010, after consideration of the Notice of Appointment and Application for Order Approving Appointment of Trustee [ECF No. 98] and the accompanying Trustee’s Verified Statement and Notice of Acceptance [ECF No. 98-1] and Affidavit of Disinterest [ECF No. 98-2], the Court entered the Order Approving the Appointment of James A. Knauer as Chapter 11 Trustee [ECF No. 102] in the above-captioned bankruptcy case.

¹ The Bluegrass creditors have entered in to a written settlement agreement with the Estate, acting by and through the Trustee, which includes, among other things, a full release of the Trustee and his professionals. Because the settlement has not yet been presented or approved, the Bluegrass creditors join in this reservation of rights at this time, pending such approval.

2. On February 12, 2012, James A. Knauer, as Chapter 11 Trustee for the Estate of Eastern Livestock Co., LLC (the “Trustee”), filed his Application to Employ Kroger, Gardis & Regas, LLP as Special Counsel to the Trustee [ECF No. 1056], upon Affidavit submitted in support thereof. This Application was approved by Order of the Court [ECF No. 1084] on March 13, 2012.

3. On November 20, 2012, KGR filed its First Interim Application of Kroger, Gardis & Regas, LLP for Compensation and Reimbursement of Expenses as Special Counsel to Chapter 11 Trustee [ECF No. 1545] (the “First Interim Application”), which is at issue herein.

OBJECTION AND RESERVATION OF RIGHTS

4. For reasons previously stated, the Creditors continue in their objections to the allowance and payment of fees and expenses for the Trustee’s Firm KGR on both an interim and final basis.

5. To the extent that the Court enters an order approving the First Interim Application, the order will not be a final approval of the fees or expenses. *See Matter of Taxman Clothing Co.*, 49, F.3d 310, 312 (7th Cir. 1995) (“The law is clear . . . that all interim awards of attorney’s fees in bankruptcy cases are tentative.”) (citations omitted); *In re Eckert*, 414 B.R. 404, 409 (Bankr. N.D. Ill. 2009) (“Interim fee awards under 11 U.S.C. § 331 are discretionary and are subject to reexamination and adjustment during the course of the case The Court may review the case at its conclusion and take into account the results obtained in making a final allowance.”) (citations omitted); *In re Gibson*, 2010 WL 774573, *10 (Bankr. C.D. Ill. 2010) (interim orders allowing fee applications are subject to further review and modification by court) (citations omitted).

6. Against this background, a lengthy objection to the First Interim Application is not required at this interim stage. The Creditors reserve any and all rights to object to the final fee application filed by KGR in this bankruptcy case.

Respectfully submitted,

DELCOTTO LAW GROUP PLLC

/s/ Laura Day DelCotto, Esq.

Amelia Martin Adams, Esq.

200 North Upper Street

Lexington, KY 40507

Telephone: (859) 231-5800

Facsimile: (859) 281-1179

ldelcotto@dlgfirm.com

aadams@dlgfirm.com

COUNSEL FOR CREDITORS

CERTIFICATE OF SERVICE

I hereby certify that on December 12, 2012, a copy of the foregoing pleading was filed electronically. Notice of this filing will be sent to the following parties through the Court's Electronic Case Filing System. Parties may access this filing through the Court's system.

David L. Abt
Amelia Martin Adams
John W. Ames
Jerald I. Ancel

T. Kent Barber

Robert A. Bell
C. R. Bowles, Jr.
Lisa Koch Bryant
Steven A. Brehm
Kent A. Britt
James M. Carr
John R. Carr III
Deborah Caruso

Bret S. Clement
Joshua E. Clubb
Jason W. Cottrell
Kirk Crutcher

Laura Day DelCotto

davidabt@mwt.net
aadams@dlgfirm.com
james@bgdlegal.com
jancel@taftlaw.com; krussell@taftlaw.com
ecfclerk@taftlaw.com
kbarber@dlgfirm.com; dlgecf@dlgfirm.com
dlgecfs@gmail.com
rabell@vorys.com
cbowles@bgdlegal.com
courtmail@fbhlaw.com
sbrehm@bgdlegal.com
kabritt@vorys.com
jim.carr@faegrebd.com
jrciii@acs-law.com; sfinnerty@acs-law.com
dcaruso@daleeke.com; lharves@daleeke.com
mthomas@daleeke.com
bclement@acs-law.com; sfinnerty@acs-law.com
joshclubb@gmail.com
jwc@stuartlaw.com
kcrutcher@mcs-law.com; jparson@mcs-law.com
cmarshall@mcs-law.com
ldelcotto@dlgfirm.com; dlgecf@dlgfirm.com
dlgecfs@gmail.com

Dustin R. DeNeal	dustin.deneal@faegrebd.com
David Alan Domina	Patricia.moffit@bakerd.com dad@dominalaw.com; KKW@dominalaw.com efiling@dominalaw.com
Daniel J. Donnellon	ddonnellon@ficlaw.com; knorwich@ficlaw.com
Jesse Cook-Dubin	jcookdubin@vorys.com; vdarmstrong@vorys.com
Trevor L. Earl	tearl@rwsvlaw.com
Shawna M. Eikenberry	shawna.eikenberry@faegrebd.com
Jeffrey R. Erler	jeffe@bellnunnally.com
Robert Hughes Foree	robertforee@bellsouth.net
Sandra D. Freeburger	sfreeburger@dsf-atty.com; smattingly@dsf-atty.com
Darla J. Gabbitas	Darla.gabbitas@moyewwhite.com
Melissa S. Giberson	msgiberson@vorys.com
Jeffrey J. Graham	jgraham@taftlaw.com
Terry E. Hall	terry.hall@faegrebd.com
John David Hoover	jdhoover@hooverhull.com
John Huffaker	john.huffaker@srouselaw.com lynn.acton@srouselaw.com rhonda.rogers@srouselaw.com
Jeffrey L. Hunter	Jeff.Hunter@usdoj.com
Jay Jaffee	jay.jaffee@faegrebd.com
James Bryan Johnston	bjtexas59@hotmail.com; bryan@ebs-law.net
Todd J. Johnston	tjohnston@mcjllp.com
David Jones	david.jones@srouselaw.com
Jill Z. Julian	Jill.Julian@usdoj.com
Edward M. King	tking@fbtlaw.com; dgioffe@fbtlaw.com
James A. Knauer	jak@kgrlaw.com; hns@kgrlaw.com
Erick P. Knoblock	eknoblock@daleeke.com
Theodore A. Konstantinopoulos	ndohbky@jbandr.com
David A. Laird	david.laird@moyewwhite.com; lisa.oliver@moyewwhite.com deanne.stoneking@moyewwhite.com
Randall D. LaTour	rdlatour@vorys.com; khedwards@vorys.com
David L. LeBas	dlebas@nmanhowell.com; koswald@nmanhowell.com
Elliott D. Levin	robin@rubin-levin.net; edl@trustesolutions.com; atty_edl@trustesolutions.com
Kim Martin Lewis	kim.lewis@dinslaw.com; lisa.geeding@dinslaw.com patrick.burns@dinslaw.com
James B. Lind	jblind@vorys.com
Karen L. Lobring	lobring@msn.com
John Hunt Lovell	john@lovell-law.net; sabrina@lovell-law.net
Harmony A. Mappes	harmony.mappes@faegrebd.com
John Frederick Massouh	john.massouh@srouselaw.com
Michael W. McClain	mike@kentuckytrial.com
Kelly Greene McConnell	lisahughes@givenspursley.com
James E. McGhee, III	mcghee@derbycitylaw.com
William Robert Meyer II	rmeyer@stites.com
Christie A. Moore	cmoore@bgdlegal.com
Allen Morris	amorris@stites.com; dgoodman@stites.com
Judy Hamilton Morse	judy.morse@crowedunlevy.com; ecf@crowedunlevy.com donna.hinkle@crowedunlevy.com; karol.brown@crowedunlevy.com
Walter Scott Newbern	wsnewbern@msn.com
Matthew J. Ochs	matt.ochs@moyewwhite.com; kim.maynes@moyewwhite.com
Shiv G. O'Neill	shiv.oneill@faegrebd.com
Michael W. Oyler	moyler@rwsvlaw.com
Ross A. Plourde	ross.plourde@mcafeetaft.com erin.clogston@mcafeetaft.com

Wendy W. Ponader

wendy.ponader@faegrebd.com

Timothy T. Pridmore

Sarah.henderson@bakerd.com

Anthony Raluy

tpridmore@mcjllp.com; lskibell@mcjllp.com

Eric W. Richardson

traluy@fbhlaw.net

Mark A. Robinson

ewrichardson@vorys.com

Jeremy S. Rogers

mrobinson@vhrlaw.com; dalbers@vhrlaw.com

John M. Rogers

Jeremy.Rogers@dinslaw.com; Joyce.jenkins@dinslaw.com

James E. Rossow, Jr.

johnr@rubin-levin.net; susan@rubin-levin.net

Ashley S. Rusher

jim@rubin-levin.net

Thomas C. Scherer

asr@blancolaw.com

Ivana B. Shallcross

tscherer@binghammchale.com

James E. Smith

ishallcross@bgdlegal.com

William E. Smith III

jsmith@smithakins.com

Robert K. Stanley

wsmith@k-glaw.com

Meredith R. Thomas

robert.stanley@faegrebd.com

John M. Thompson

mthomas@daleeke.com; kmark@daleeke.com

john.thompson@crowedunlevy.com

jody.moore@crowedunlevy.com

donna.hinkle@crowedunlevy.com

kevin.toner@faegrebd.com

Kevin Toner

ctrapp@rubin-levin.net

Christopher M. Trapp

ustpregion10.in.ecf@usdoj.gov

U.S. Trustee

jwatt@kgirlaw.com

Jennifer Watt

sweigand@ficlaw.com

Stephen A. Weigand

Charles.R.Wharton@usdoj.gov

Charles R. Wharton

swhite@hooverhull.com

Sean T. White

james@rubin-levin.net; ATTY_JTY@trusteesolutions.com

James T. Young

kim@rubin-levin.com; lemerson@rubin-levin.com

I further certify that on December 12, 2012, a copy of the foregoing pleading was served by first-class U.S. mail, postage prepaid, or by electronic mail as indicated, to the following:

Bovine Medical Associates, LLC

1500 Soper Road

Carlisle, KY 40311

VIA U.S. MAIL

Nancy Gargula

Region 8, UST Office

nancy.gargula@usdoj.gov

VIA EMAIL

National Cattlemen's Beef Assoc.

c/o Allie Devine, Esq.

allie@devineanddonley.com

VIA EMAIL

Tennessee Department of Revenue

c/o TN Attorney General's Office

Bankruptcy Division

P. O. Box 20207

Nashville, TN 37202-0207

VIA U.S. MAIL

Clifford J. White, III, Director

Executive Office for U. S. Trustees

Clifford.J.White@usdoj.gov

VIA EMAIL

/s/ Laura Day DelCotto, Esq.

COUNSEL FOR CREDITORS